REMARKS

In light of the above-amendment and remarks to follow, reconsideration and allowance of this application are requested.

The IDS filed September 12, 2003 has been objected to because it does not list the references on a new, non-initialed PTO-1449 or equivalent form. Although applicant continues to disagree with the Examiner's assertion and request that the IDS filed September 12, 2003 be considered on it merits, in order to expedite the prosecution of this application, applicant submits herewith a new, non-initialed PTO-1449.

Claims 1-3, 5, 7-9 and 11-15 have been rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 5,707,131 (Li). Claims 4, 6, and 10 have been rejected under 35 U.S.C. § 103 as allegedly being unpatentable over Li. Applicant respectfully traverses these rejections.

Li relates to an electromagnetic radiation collecting and condensing optical system which combines energy from multiple sources into a single output to illuminate a target. (*See* Abstract; col. 2, lines 2-6; col. 3, lines 26-35). Contrary to the Examiner's assertion, Li does not describe "first (M1) and second (M2) concave opposing reflectors each having first and second focal points (S1, S2; S2, I)" as alleged by the Examiner. Further, the Examiner alleges that "the focal points (S1, S2; S2, I) are conjugate points which serve to define the optical axis of each reflector, and fig. 2 clearly shows the optical axis of each reflector (i.e., the claimed first and second optical axis) to be collinear (along line y)." (Office Action: page 4, paragraph 4).

Applicant respectfully submits that the Examiner cannot use hindsight gleaned from the present invention to reconstruct or modify the prior art reference to render claims unpatentable, particularly when his re-construction contradicts the clear teaching of the reference. In fact, contrary to the Examiner's assertion, Li specifically describes that in Fig. 2, the reflector M_1 has an optical axis Z_1 and the reflector M_2 has an optical axis Z_2. (*see* Li: col. 3, lines 4-6). Additionally, as clearly shown in Fig. 2 of Li, the optical axis Z_1 and Z_2 are parallel and not collinear as alleged by the Examiner. The Examiner cannot reconstruct the prior art reference such that it contradicts the clear teaching of the reference. Li has clearly described that the optical axis of the reflectors M_1 and M_2 are Z_1 and Z_2, respectively.

> "Reflector M_1 has an optical axis Z_1 ... and reflector M_2 has an optical axis Z_2 ... The reflectors M_1 and M_2 are located on opposite sides of a common Y axis, with their respective centers of

> curvature O_1 and O_2 being located on the common Y axis." (Li: col. 3, lines 4-8).

Yet, the Examiner continues to ignore the clear teaching of the Li reference and insists that the common Y axis in Fig. 2 defines the optical axis of each reflector. Applicant kindly requests the Examiner to specifically identify the portion of the reference that supports his view that Li defines the common Y axis in Fig. 2 (and not optical axes Z_1 and Z_2 in Fig. 2) as the optical axis of each reflector. It is well established that the Examiner cannot use hindsight gleaned from the present invention to modify or reconstruct the prior art reference to render claims unpatentable.

Of course, a rejection based on 35 U.S.C. §102 as the present case, requires that the cited reference disclose each and every element covered by the claim. Here, Li does not describe positioning two reflectors such that the optical axes are substantially collinear and the two focal points of each reflector are on its respective optical axis, as required in claims 1, 12 and 15. *Electro Medical Systems S.A. v. Cooper Life Sciences Inc.,* 32 U.S.P.Q.2d 1017, 1019 (Fed. Cir. 1994); *Lewmar Marine Inc. v. Barient Inc.*, 3 U.S.P.Q.2d 1766, 1767-68 (Fed. Cir. 1987), *cert. denied*, 484 U.S. 1007 (1988); *Verdegaal Bros., Inc. v. Union Oil Co.*, 814 F.2d 628, 631, 2 U.S.P.Q.2D 1051, 1053 (Fed. Cir.), *cert. denied*, 484 U.S. 827 (1987). The Federal Circuit has mandated that 35 U.S.C. 102 requires no less than "complete anticipation ... [a]nticipation requires the presence in a single prior art disclosure of all elements of a claimed invention arranged as in the claim." *Connell v. Sears, Roebuck & Co.*, 772 F.2d 1542, 1548, 220 U.S.P.Q. 193, 198 (Fed. Cir. 1983); *See also, Electro Medical Systems*, 32 U.S.P.Q. 2d at 1019; *Verdegaal Bros.*, 814 F.2d at 631.

Further, Li describes placing the light sources S_1 and S_2 on the opposite sides of the center of curvature O_1 of the reflector M_1 on the Y axis at distance d_1 from the center of curvature O_1. (*See* Li: col. 3, lines 10-15; Fig. 2). Also, Li describes in col. 3, lines 28-32, that "The radiation received by reflector M_2 is collected and condensed by the concave surface and reflected to form an image at point I, which is an equal and opposite distance from the center of curvature O_2 as the source S_2." Even assuming *arguendo* that Li's reflectors have multiple focal points and the light sources S_1 and S_2 are focal points of the reflectors as alleged by the Examiner, Li does not anticipate the present invention because Li requires that the focal points to be on the common Y axis (and not optical axes Z_1 and Z_2) and equidistant from the reflector's center of curvature.

Therefore, since Li fails to describe significant elements of recited by claims 1, 12 and 15, it follows that, contrary to the Examiner's assertion, Li does not anticipate or render obvious claims 1, 12 and 15, or any of claims 2-11 and 13-14 dependent on claims 1 and 12, respectively.

Moreover, to establish a prima facie case of obviousness, three basic criteria must be met. First there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991); MPEP 2143. Here, the Examiner has failed to establish a prima facie case of obviousness because Li does not teach or suggest all the claim limitations of claim 1 and thus included in dependent claims 4, 6 and 10.

On the basis of the above amendment and remarks, reconsideration and allowance of claims 1-15 are respectfully requested.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 50-0624, under Order No. NY-WAVIEN 295-CONT from which the undersigned is authorized to draw.

Respectfully submitted,

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Attachments